

From: Franke, Evan R
To: Busch, Philip B; Zengotita-Benboa, Colleen R; Roll, Annemarie E; Miles, John D; Miller, Caitlin E; Lonegan, Bryan K
Cc: Smith, Alice J; Ooi, Maura M; Elder, Phillip D; Hinds, Ian G; Kleczek, Marguerite P (Ania); Groom, Molly M; Charette, Kaitlyn E; Angustia, Kathleen M (Kate); Schau Nelson, Jessica R
Subject: Filings and materials to review for today's DOJ respons(es)
Date: Monday, February 06, 2017 7:33:14 AM
Attachments: FW Washington v. Trump - Hawaii motion to intervene.msg
FW Washington v. Trump - Response to Stay.msg
RE Washington v. Trump - Response to Stay.msg

All,

Materials are coming in fast and furious.

Hawaii has moved to intervene (or in the alternative be counted as *amicus*) in the Washington v. Trump litigation at the request for stay and the appeal of the TRO.

Washington and Minnesota have filed their response to the request for stay.

A number of other *amici* have filed briefs.

All I have so far received are attached. You may have received these from other sources. Sorry if I am doubling up, but I want to have everyone have all of these.

Washington has finally cited the Fifth Circuit *Texas* case as supporting their bid to challenge the EO here. Interestingly, this is the opposite of the position they took when they were among the non-plaintiff states opposing the attack on DAPA/DACA where they approved of the brief filed by the United States opposing the PI and its reasoning and filed additional briefing to the argument made by the United States: http://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/News/Press_Releases/2015/Texas%20v.%20US%20Multi-State%20PI%20Amicus%20As%20Filed.pdf

It was the same Washington AG as it is now. There are distinguishing factors. We have the additional procedural hurdle at being at the TRO stage rather than the PI stage. Also, Washington **factually** asserted that the Nov. 20 Memo from Secretary Johnson was a net economic positive and they argue only economic harm from the EO. However, the U.S. argued no standing for Texas and the other states on their economic harm theory, and Washington signed onto a brief saying (on page 3)

“To avoid redundancy, the amici States will not repeat the United States’ compelling arguments as to why the district court erred in holding that Plaintiffs’ APA claim was likely to succeed. Instead, the amici States will focus on the other three elements of the preliminary injunction test: irreparable injury, the balance of hardships, and the public interest. The amici States will also explain why the preliminary injunction is so overbroad that this error independently merits reversal.”

Evan

Evan R Franke

Chief, Litigation and National Security Coordination Division
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue, N.W.
Suite 4210
Washington, D.C. 20529-2120



(b)(6)

Litigation Issues Emailbox: OCC.Lcc@dhs.gov

National Security Issues Emailbox: USCISoccNSCD@dhs.gov

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Thank you.

From: Smith, Alice J
To: Busch, Philip B; OCC-Clearance; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver
Date: Wednesday, February 08, 2017 11:44:00 AM

My comments:

- 1) While it's helpful to see in the draft WH guidance that they appear to want to provide "categorical" mechanisms to permit various groups of the E.O.- affected aliens to enter or reenter the U.S., should the full TRO be lifted, I don't really understand how they get around POTUS' directives in secs. 3(g) and 5(e) that the Secretaries of HS and State do "case by case" determinations. But if they want to read his E.O. to permit category exemptions w/o need for waivers, I would not object.
- 2) Would help to make it a little clearer in the DOS paper in para. beginning "For an individual who is physically present in the United States....the revocation will take effect...." that the adv. parole grant by DHS may be relied upon by State to grant a Section 3(g) waiver for the issuance of visas. Does the person then have 2 docs to get back in the U.S.: a DHS-issued I-512 AP + a DOS waiver-infused visa? Or does the issuance of the visa cancel our adv. parole doc? Just curious. Maybe it doesn't have to be stated in these two docs., but affected travelers and CBP may want guidance.

No further edits or comments, and please disregard these if they aren't helpful. I know this a very moving target.

Thanks,
Alice

From: Busch, Philip B
Sent: Wednesday, February 08, 2017 10:47 AM
To: Smith, Alice J; OCC-Clearance; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Would appreciate any thoughts on what is attached. Thanks, Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



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From: Smith, Alice J

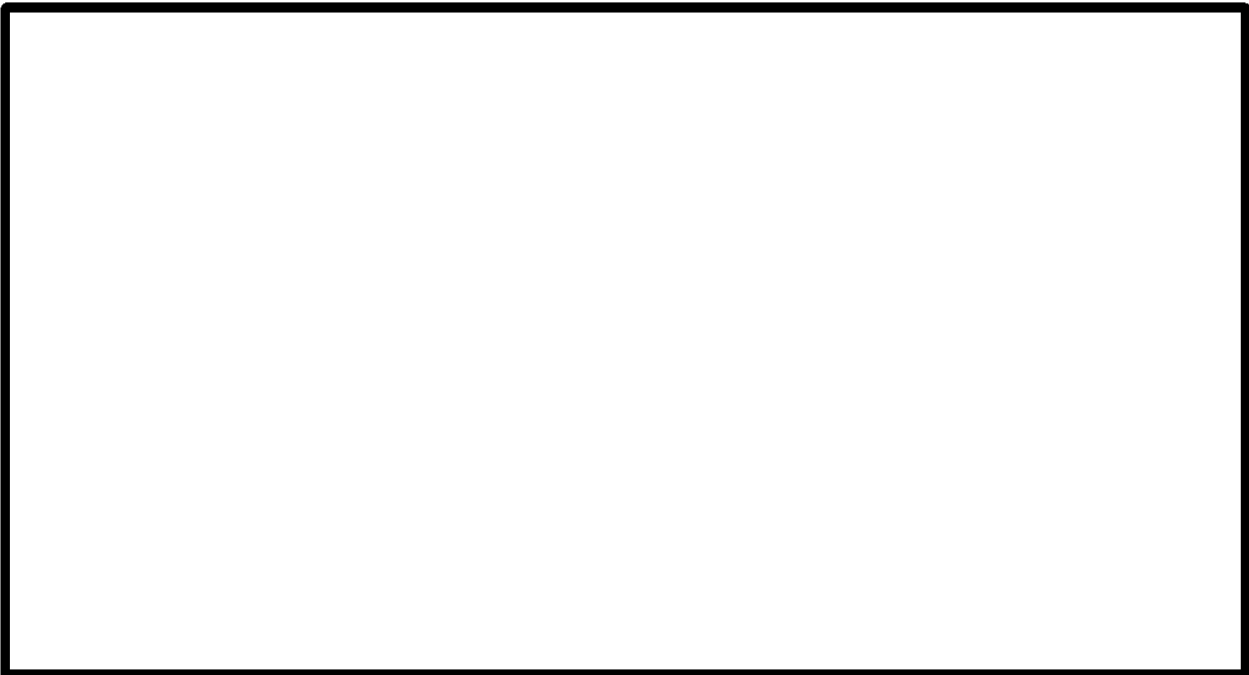
Sent: Tuesday, February 07, 2017 7:29 PM

To: Busch, Philip B; OCC-Clearance; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Subject: RE: Waiver

Thank you, Phil. I know that must have been a bit of torture trying to pull together so much of our simultaneous "ECN-ing" (I like that term ☺).

General question, and I fully recognize this may well have been raised and nixed in other discussions about this E.O. waiver process. If so, please feel free to say "thank you for playing, Alice, time to move on":



(b)(5)

Thanks again,
Alice

From: Busch, Philip B

Sent: Tuesday, February 07, 2017 6:25 PM

To: OCC-Clearance; Smith, Alice J; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Subject: RE: Waiver.

Thanks all for your careful review and input. Attached FYI is what I just sent back to SCOPs et al. I used the OPS documents as a baseline as they requested – have tried to capture the key points made in the OCC comments and edits, while trying to trim them down a bit to eliminate some of the redundancy, back and forth, etc. that inevitably arise when lots of people are EC'ing (is that a verb? I guess it is now) on short notice simultaneously, so as not to overwhelm the recipients. Let me know if you think I've missed anything essential. Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



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From: Hinds, Ian G On Behalf Of OCC-Clearance

Sent: Tuesday, February 07, 2017 2:52 PM

To: Smith, Alice J; Busch, Philip B; Groom, Molly M; Kleczek, Marguerite P (Ania); Loneyan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Cc: OCC-Clearance

Subject: RE: Waiver

I defer to Phil/Molly on how they want to handle this.

From: Smith, Alice J

Sent: Tuesday, February 07, 2017 2:49 PM

To: Busch, Philip B; Hinds, Ian G; Groom, Molly M; Kleczek, Marguerite P (Ania); Loneyan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K

Cc: OCC-Clearance

Subject: RE: Waiver

I've made my comments, as I know PE and a few others have, to the ecn. Before this goes back, I think it needs a final OCC reviewer (is that you Ian ?) to clean up some places where we were editing on top of each other and it's choppy.

Thanks,
Alice

From: Busch, Philip B
Sent: Tuesday, February 07, 2017 1:02 PM
To: Hinds, Ian G; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Cc: OCC-Clearance
Subject: RE: Waiver

Adding ALD

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



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From: Hinds, Ian G
Sent: Tuesday, February 07, 2017 12:59 PM
To: Busch, Philip B; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Cc: OCC-Clearance
Subject: RE: Waiver

[Here is the link.](#)

From: Busch, Philip B
Sent: Tuesday, February 07, 2017 12:53 PM
To: Hinds, Ian G; Groom, Molly M; Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Could someone put this on an ECN for our comments? Thanks, Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services



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From: Hinds, Ian G
Sent: Tuesday, February 07, 2017 12:52 PM
To: Groom, Molly M; Kleczek, Marguerite P (Ania); Busch, Philip B; Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Here is what we just received from SCOPS. They want comments by 3 pm.

From: Groom, Molly M
Sent: Monday, February 06, 2017 10:36 PM
To: Kleczek, Marguerite P (Ania); Busch, Philip B; Lonegan, Bryan K; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

That was the plan discussed. SCOPS was given flexibility on how to set it up so we will comment on what they provide. I think they are considering using the 131 and the 192. But Lori was focused on AP. Neither is on point and would have to be adapted. I understand you all recommended not going with the 192 because that generally goes to inadmissibility, but the 131 is targeted for the parole standard so both will require adaptations. Let's see what they come up with and I look forward to learning more about our best recommendations. Thanks so much for us know and careful work on this front.

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 10:28:58 PM
To: Busch, Philip B; Lonegan, Bryan K; Groom, Molly M; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Zimonjic, Milica; Tellawi, Heba K
Subject: RE: Waiver

Based on what Phil said offline, just confirming that it will be implementation using the advance parole process as a model—it will not be for advance parole itself. So, if the person is an H-1B, gets the waiver, leaves the US, and then returns, CBP will admit this person as an H-1B.

From: Busch, Philip B
Sent: Monday, February 06, 2017 4:36 PM

To: Kleczek, Marguerite P (Ania); Lonegan, Bryan K; Groom, Molly M; Elder, Phillip D; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E
Subject: RE: Waiver

Just had a call with Lori, etc. and CBP and OGC. SCOPs is going to put together a paper by tomorrow on how they think this could be implemented using advance parole. Phil

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security



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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 3:29 PM
To: Lonegan, Bryan K; Groom, Molly M; Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E
Subject: RE: Waiver

Thanks, Bryan, for finding that case law. Much appreciated!

I think if we model implementation after how we conduct the case-by-case parole program, such that there are only guidelines put out there for adjudicators, and adjudicators retain discretion in the decisions, we should be able to withstand an APA challenge.

From: Lonegan, Bryan K
Sent: Monday, February 06, 2017 3:11 PM
To: Groom, Molly M; Kleczek, Marguerite P (Ania); Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E
Subject: RE: Waiver

Sorry. I was not clear.



(b)(5)



That being said, the key to this whole thing is what does the order mean when it says "the national interest?"

From: Groom, Molly M

Sent: Monday, February 06, 2017 3:04 PM

To: Kleczek, Marguerite P (Ania); Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

[Redacted]

(b)(5)

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 3:01:27 PM

To: Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

Phillip, Monica, and I have come up with these options—We agree to step away from proposing use of the I-192. Instead consider the following:

(b)(5)

[Redacted]

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 2:42 PM

To: Elder, Phillip D; Busch, Philip B; Vignier, Monica A; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

What a great find! Do you have any experience with using that exception?

From: Elder, Phillip D

Sent: Monday, February 06, 2017 2:40 PM

To: Kleczek, Marguerite P (Ania); Busch, Philip B; Vignier, Monica A; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonigan, Bryan K

Subject: RE: Waiver

(b)(5)

From: Kleczek, Marguerite P (Ania)

Sent: Monday, February 06, 2017 2:32 PM

To: Busch, Philip B; Vignier, Monica A; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

(b)(5)

From: Busch, Philip B

Sent: Monday, February 06, 2017 2:17 PM

To: Kleczek, Marguerite P (Ania); Vignier, Monica A; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

(b)(5)

Philip B. Busch

Acting Deputy Chief Counsel

Senior Legal Advisor

Office of the Chief Counsel

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security

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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 2:08 PM
To: Vignier, Monica A; Busch, Philip B; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

(b)(5)

From: Vignier, Monica A
Sent: Monday, February 06, 2017 2:00 PM
To: Kleczek, Marguerite P (Ania); Busch, Philip B; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Well INA 235 is the authority for inspections.

Monica A. Vignier
Associate Counsel, USCIS-OCC

(b)(6)

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 1:52 PM
To: Busch, Philip B; Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K; Vignier, Monica A
Subject: RE: Waiver

Adding Monica.

See the latest we've have learned on this. Please see attached.

What's the authority for CBP to turn folks around at POEs? I feel like I'm missing the answer to that

basic question.

From: Busch, Philip B

Sent: Monday, February 06, 2017 10:54 AM

To: Elder, Phillip D; Groom, Molly M; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K

Subject: RE: Waiver

Take a look at the I-192 – advance permission for a nonimmigrant with documentation to enter. It's not exact, but this one seems to me to be by far the best fit for this process. And unless one is seeking T status, it's filed with CBP.

Philip B. Busch

Acting Deputy Chief Counsel

Senior Legal Advisor

Office of the Chief Counsel

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security



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From: Elder, Phillip D

Sent: Monday, February 06, 2017 10:00 AM

To: Groom, Molly M; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Lonagan, Bryan K

Subject: RE: Waiver

(b)(5)



From: Groom, Molly M

Sent: Monday, February 06, 2017 9:54 AM

To: Elder, Phillip D; Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K

Subject: RE: Waiver

Thanks all—but do we think any of our current forms could be used to adjudicate the national interest standard—which at this point we aren't clear on what it is. But if someone concluded that the waiver was in the national interest where someone needed to travel and showed urgent humanitarian reasons or SPB, could we then use the 131 for the waiver decision? And how would that work if folks who needed the waiver couldn't currently apply for the 131?

From: Elder, Phillip D

Sent: Monday, February 06, 2017 9:24 AM

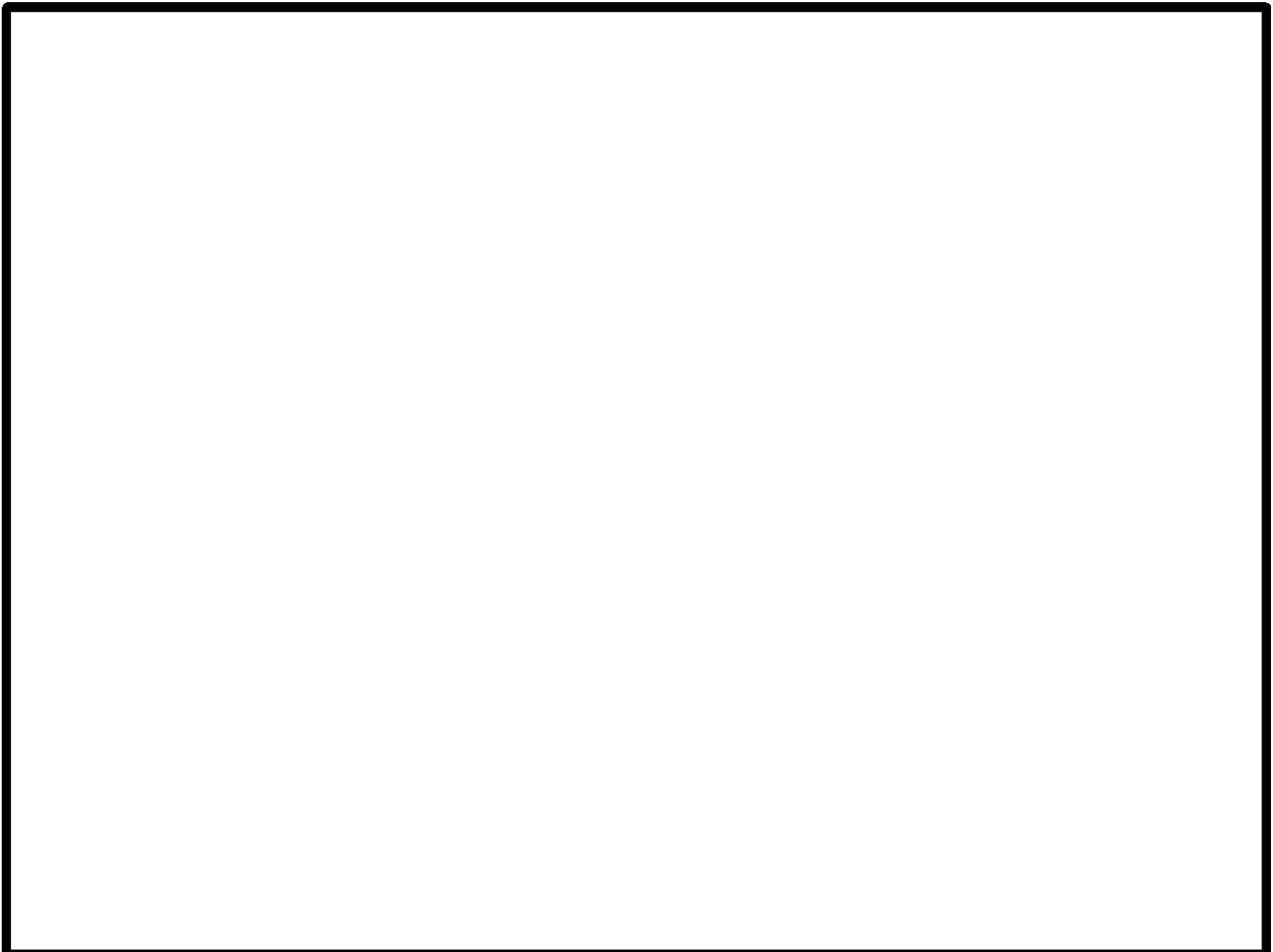
To: Busch, Philip B; Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Hinds, Ian G; Roll, Annemarie E; Loneyan, Bryan K

Subject: RE: Waiver

Molly,

Executive Order 13769, section 3, paragraph (g), states, "Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked."

(b)(5)



(b)(5)

Let me know if you need anything else.

Thanks,
Phillip

From: Busch, Philip B

Sent: Monday, February 06, 2017 9:13 AM

To: Miller, Caitlin E; Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

I think CBP has been freely using this one at the ports on its own.

Philip B. Busch
Acting Deputy Chief Counsel
Senior Legal Advisor
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

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From: Miller, Caitlin E

Sent: Monday, February 06, 2017 9:06 AM

To: Kleczek, Marguerite P (Ania); Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Roll, Annemarie E; Lonegan, Bryan K

Subject: RE: Waiver

I have one issue, although I am not sure if it has been decided already. The EO says in Sec. 3(g):

“the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.”

The use of and seems like the EO could be read to either 1) require both DHS and DOJ to jointly agree to waivers; or 2) provide independent authority for DHS and DOS to grant waivers.

(b)(5)

Caitlin Miller (formerly Shay)

Associate Counsel, Litigation and National Security Coordination Division

Office of the Chief Counsel

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security

111 Massachusetts Ave., NW, Suite 3100

Mail Stop 2121

Washington, DC 20529-2121

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From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 8:00 AM
To: Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Will try!

From: Groom, Molly M
Sent: Monday, February 06, 2017 7:59 AM
To: Kleczek, Marguerite P (Ania); Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

Can you sketch it out in next hour?

From: Kleczek, Marguerite P (Ania)
Sent: Monday, February 06, 2017 7:58:07 AM
To: Groom, Molly M; Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Loneyan, Bryan K
Subject: RE: Waiver

RVLD can start figuring out a process.

From: Groom, Molly M
Sent: Sunday, February 05, 2017 11:27 PM
To: Smith, Alice J; Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver

Thanks Alice. No need to cancel anything at 9 tomorrow as the call was at 9 tonight but limited lines. Waiting to hear from Lori. All the information is helpful. If anyone—Evan? Could synthesize issues with creating process for individuals to apply for a waiver under the EO that would be good—regardless of which part of DHS does it.

From: Smith, Alice J
Sent: Sunday, February 05, 2017 11:18 PM
To: Ooi, Maura M; Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K
Subject: RE: Waiver



(b)(5)

Agree it's best if USCIS can avoid having to do these E. O. waivers and keep them at CBP.

Will try to join you at 9 am. but have outside appt. I may not be able to cancel.

Alice

From: Ooi, Maura M

Sent: Sunday, February 05, 2017 9:19:47 PM

To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K

Subject: RE: Waiver

I believe the Paperwork Reduction Act generally requires us to go through the OMB approval process for a new information collection, including publishing the information collection for notice and public comment. I'm definitely outside my swim lane with this, so I don't know if there are exceptions that might apply here..

From: Groom, Molly M

Sent: Sunday, February 05, 2017 9:09:17 PM

To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K

Subject: RE: Waiver

Is the information collection required by OMB or any statute? All help appreciated.

From: Ooi, Maura M

Sent: Sunday, February 05, 2017 9:07:50 PM

To: Groom, Molly M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Loneyan, Bryan K

Subject: RE: Waiver

I was just thinking that if we needed to be ready to accept requests very quickly given how fast things are moving, that wouldn't leave us much (or perhaps enough) time to go through the OMB approval process for this information collection

From: Groom, Molly M

Sent: Sunday, February 05, 2017 8:58:16 PM

To: Ooi, Maura M; Zengotitabengoa, Colleen R; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

What PRA issues might you envision? Simple and straightforward appreciated. And just throw it out even if you are just flagging

From: Ooi, Maura M

Sent: Sunday, February 05, 2017 8:55:52 PM

To: Zengotitabengoa, Colleen R; Groom, Molly M; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Also, as for broader legal issues with USCIS adjudicating these waiver requests, and along the lines of the rule making issues Evan raised, there's the question of how people would make these requests to us - just with a letter? I would think we'd need a form for these requests, which could raise potential PRA issues. I defer to Phillip on that, but wanted to flag it.

From: Zengotitabengoa, Colleen R

Sent: Sunday, February 05, 2017 8:34:46 PM

To: Groom, Molly M; Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Shouldn't the second to last sentence about seeking benefits from USCIS be clarified to those seeking benefits from within the United States?

From: Groom, Molly M

Sent: Sunday, February 05, 2017 8:01:11 PM

To: Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Thought on issues with agreeing to this statement? Assuming USCIS fights being the entity to adjudicate such travel requests, we should still identify legal issues.

From: Franke, Evan R

Sent: Sunday, February 05, 2017 7:28:36 PM

To: Groom, Molly M; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Thanks!

From: Groom, Molly M

Sent: Sunday, February 05, 2017 7:20:49 PM

To: Franke, Evan R; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

Many thanks [REDACTED]

(b)(5)

[REDACTED] Still we need to discuss with CBP and maybe OGC at 9. If that happens I will send a number.

From: Franke, Evan R

Sent: Sunday, February 05, 2017 7:15:01 PM

To: Groom, Molly M; Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonegan, Bryan K

Subject: RE: Waiver

(b)(5)

All,

Sorry this is not more coherent, but I wanted to start articulating thoughts.

Regards,

Evan

From: Groom, Molly M

Sent: Sunday, February 05, 2017 5:55:13 PM

To: Elder, Phillip D; Busch, Philip B; Hinds, Ian G; Zengotitabengoa, Colleen R; Smith, Alice J; Ooi, Maura M; Miller, Caitlin E; Franke, Evan R; Roll, Annemarie E; Kleczek, Marguerite P (Ania); Lonagan, Bryan K

Subject: Waiver

Looking for quick thoughts on legal issues if we were asked to adjudicate waivers under the EO at section 3 for the 7 countries in the national interest.

Knowing what we know from DACA, what should we be thinking about. This is a tonight issue so what thoughts you have would be appreciated.
